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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 ROBERT DUANE FRANKLIN,

11 Petitioner,

No. CIV S-11-2498 MCE CKD P

12 vs.

13 KATHLEEN L. DICKINSON,

14 Respondent.

ORDER

15 _____/
16 Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of
17 habeas corpus pursuant to 28 U.S.C. § 2254. On October 7, 2011, the undersigned issued
18 findings and a recommendation that the petition be summarily dismissed because it challenged
19 petitioner's conditions of confinement, and thus should have been brought pursuant to 42 U.S.C.
20 § 1983.

21 On December 1, 2011, petitioner filed objections to the findings and
22 recommendations, stating that he "now seeks to invalidate (an) order which revoked his parole."
23 (Dkt. No. 10 at 3.) The court will therefore vacate its earlier recommendation of summary
24 dismissal and grant petitioner leave to file an amended petition challenging the duration of his
25 confinement pursuant to 28 U.S.C. § 2254. Petitioner is advised that any claims in the amended
26 petition concerning conditions of confinement – e.g., retaliation or denial of family visits – are

1 not cognizable under section 2254 and will be disregarded.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. The findings and recommendations filed October 7, 2011, are vacated;

4 2. Petitioner's application for a writ of habeas corpus is dismissed without
5 prejudice; and

6 3. Petitioner is granted thirty days from service of this order to file an amended
7 petition, titled "First Amended Petition."

8 Dated: March 30, 2012

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10 CAROLYN K. DELANEY
11 UNITED STATES MAGISTRATE JUDGE
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